2/28/86

NEWS from CPSC
U.S. Consumer Product Safety Commission

For Release: February 28, 1986

NEWARK PUBLIC LIBRARY
JUN 26 1986
U. S. GOVT. PUBS.
DEPOSITORY 378

CPSC TO BEGIN RULEMAKING
PROCESS ON METHYLENE CHLORIDE

The U.S. Consumer Product Safety Commission voted yesterday (4-1, Commissioner Statler dissenting) to initiate a rulemaking proceeding that could result in a declaration that products containing the chemical methylene chloride are "hazardous substances" due to a carcinogenic risk from inhaling the vapors of the chemical.

The Commission stressed that the purpose of the rulemaking is to avoid or resolve uncertainties as to whether methylene chloride containing products are hazardous and thus are required to have cautionary labeling. Thursday's decision only begins the process. Before a final determination is made, the Commission will publish a notice in the Federal Register seeking data and views from interested parties.

Substantial quantities of methylene chloride, a chlorinated solvent, are found in aerosol spray paints and chemical paint strippers

The National Toxicology Program has found methylene chloride to cause cancer in laboratory animals at levels in air similar to those that humans might encounter in the occasional use of those products without adequate ventilation.

The Commission has been considering information on the toxicity of methylene chloride for some time and in August of 1985 was petitioned by the Consumer Federation of America to initiate rulemaking to find that methylene chloride is a hazardous substance and to subsequently ban its use. The present action does not involve a ban of these products.

- more -

The Commission also voted unanimously to continue a three-pronged voluntary program to reduce consumer exposure to methylene chloride during the potentially lengthy rulemaking process. The Commission staff will be working with a steering committee of industry and consumer interest representatives to assist in the development of appropriate precautionary labeling, consumer education programs, and product reformulation efforts.

# # #

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

STATEMENT OF

COMMISSIONER TERRENCE SCANLON

ON

METHYLENE CHLORIDE

FEBRUARY 28, 1986

The Commission's decision yesterday to initiate a rulemaking procedure to determine if methylene chloride is a potential human carcinogen, coupled with an affirmation of its intention to work with industry on a voluntary program to reduce human exposure to methylene chloride, is an encouraging development. To my way of thinking, this two-pronged approach is the best way to expeditiously and equitably deal with the methylene chloride exposure problem. Moreover, human safety will not be compromised while either process is underway since virtually all paint strippers and spray paints containing methylene chloride that are on the market have ingestion and inhalation warning labels on them already.

Playing a key role in this decision was the fact that the industry involved has already indicated its willingness to work voluntarily on consumer education, product re-formulation and product labeling with respect to products containing methylene chloride. Also, such a cooperative approach could, and I hope will, produce positive results in the near future.

In addition, the rulemaking process should help resolve uncertainties that exist over whether methylene chloride is likely to increase the risk of cancer to humans. Not only will it permit the Commission to gather and evaluate additional information, but it allows all those affected, including consumers, an opportunity to comment on all the relevant data. In addition, the rulemaking process provides important procedural safeguards for those whose interests are most affected.

One other positive result that may come out of this decision is the impetus it may give to the development of criteria for chronic hazard labeling. In short, this approach has much to recommend it as my vote indicated.

* * *

FEBRUARY 27, 1986

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

(202) 634-7710

DISSENTING STATEMENT OF
COMMISSIONER STUART M. STATLER
ON METHYLENE CHLORIDE (DCM)

One would normally expect the public to applaud when the CPSC votes to take even the first steps toward regulating industry in the interest of public health and safety. But today's 4-1 vote to consider whether methylene chloride (DCM) is toxic within the meaning of section 3(a) of the Federal Hazardous Substances Act (FHSA) is a sham. It will only gladden the hearts of the makers of paint strippers and aerosol sprays containing this hazardous chemical.

Our staff believes that public exposure to methylene chloride in these products represents one of the clearest hazards to the public health ever investigated by this agency. They estimate that 1,380 Americans will contract cancer each year as the result of exposure to methylene chloride in paint strippers alone. With that kind of body-count, I find it mind-boggling that this Commission would decline to acknowledge that methylene chloride is and should be treated as a hazardous substance right now.

The majority today finds that this cancer risk is too "uncertain" for us to conclude that such paint strippers are bad for the American public. Instead, we'll now commence a long, drawn-out rulemaking to establish that yes, methylene chloride is bad news. The FDA, which has already proposed to ban the chemical outright in cosmetics, will rightly wonder what goes at CPSC. So will the EPA, which, based on the presence of tumors in test animals, believes -- along with every other U.S. governmental body that has considered the question -- that methylene chloride must be presumed to be a probable human carcinogen.

Let's be very clear about just how gutless is the Commission's non-action today. Had the Commission declared now that DCM is a hazardous substance under the FHSA, products like the ones we've been testing for months would have to bear labels warning consumers against breathing the vapors. That's it. That's what the Commission refused to do today. What the majority voted for was a policy that all but guarantees years of delay before manufacturers are required to warn consumers about these most serious risks.

Personally, I would have preferred a strong cancer warning immediately, thereby moving the industry in the direction of reformulating the product itself. What consumers really need and deserve are products that work well while using less DCM or that incorporate vapor barriers to help keep the DCM in the product and out of users' lungs. Unless industry produces such less hazardous products -- which it can -- all the labeling in the world won't really make much of a difference.

Today's vote shouldn't fool anyone -- not the Congress, nor the manufacturers nor the public -- into thinking that the CPSC is coming to grips with the risks of cancer from methylene chloride. I resoundingly dissent from this gross abdication of our responsibility under law.

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

STATEMENT OF COMMISSIONER SAUNDRA BROWN ARMSTRONG
CONCURRING WITH THE COMMISSION DECISION ON METHYLENE CHLORIDE

On February 27, 1986, the Commission voted 4-1 to initiate a rulemaking proceeding to declare products containing methylene chloride hazardous substances under § 3(a) of the Hazardous Substances Act (15 U.S.C. 1262) due to a risk of cancer from inhalation. This action was based on the Commission's determination that scientific evidence indicates that exposure to products containing methylene chloride could present a chronic health hazard to consumers, but also indicates some uncertainty concerning the specific cancer risk to humans which should be explored further and documented through formal rulemaking. This process will provide an opportunity for full participation by consumers, the industry, scientists, health experts and any other concerned parties in this very important and precedent-setting Commission decision.

I concur with and fully support this decision of the Commission because, in addition to the important due process consideration, it will provide the highest level of protection to the public in the long-run, as well as greater assurance that the final regulation is legally and technically sound and will not be easily side-stepped or undermined by recalcitrant manufacturers.

Given the unlikelihood that a final rule will be issued before the end of the year, the Commission voted unanimously to take additional interim measures to reduce consumer exposure to methylene chloride immediately. Specifically, the Commission directed the staff to continue to work with industry groups on a voluntary basis to develop chronic hazard labeling, to initiate a cooperative information and education program, and to facilitate manufacturers' efforts to reformulate products to eliminate methylene chloride or reduce emission rates. In addition, the Commission directed the staff to use every legally permissable means possible to alert consumers to the action taken by the Commission.

In this instance, I believe the more deliberate approach, although somewhat more extensive, is the more responsible approach. I am convinced that the decisions made by the Commission concerning methylene chloride will adequately inform the public and also spur industry to take immediate action to address this significant health and safety issue. Such prudence is clearly justified, particularly in light of the Commission's past experience in having its attempted ban of urea-formaldehyde foam insulation successfully challenged by the industry and overturned by the court. A reversal of this nature would generate confusion in the marketplace which would be detrimental to consumers and defeat the Commission's objective to modify consumer behavior and methylene chloride product use patterns.

Admittedly, rulemaking is the least dramatic of the various alternatives considered by the Commission. However, contrary to some of the more hasty enforcement options which were proposed which create the illusion of hair-trigger response, rulemaking will assure more substantial, incontestable, long-term results. In my view, this is a solution which better serves the public interest than a "knee-jerk" reaction or a "gang-busters" approach of questionable legality and effectiveness in terms of public safety.

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300

FIRST-CLASS MAIL
POSTAGE & FEES PAID
CPSC
WASHINGTON, D.C.
PERMIT No. G-72

DATED MATERIAL – USELESS IF DELAYED

READEX FICHE best copy available